

**REMARKS**

Claims 1-9 are pending in this application; claims 6-9 have been withdrawn from consideration. By the Office Action, claims 1-5 are rejected under 35 U.S.C. §103. By this Amendment, claim 1 is amended to further clarify the subject matter being claimed. Support for the amendments to the claims may be found, for example, in Figure 28 and on page 46, line 32, to page 47, line 7, of the present specification. Thus, no new matter is added by the above amendments. In view of at least the following, reconsideration and allowance are respectfully requested.

**Interview Summary**

The courtesies extended to Applicant's representative by Examiner Slifka and Supervisory Examiner Mayes at the interview held on May 28, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview. Applicants thank the Examiners for their suggestions, and have taken their comments into consideration when preparing the present Amendment.

**Rejections Under 35 U.S.C. §112, second paragraph**

The Office Action rejects claims 1-5 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Specifically, the Office Action asserts that the term "nearly" in claim 1 is indefinite. Without agreeing with or acquiescing to the rejection, Applicants note that claim 1 has been amended to recite "a spacing of the crystal lattice due to the substitution with the element corresponds to a (111) plane spacing value of a theoretical crystal lattice." Reconsideration and withdrawal of the rejection are respectfully requested.

**Rejection Under 35 U.S.C. §103**

The Office Action rejects claims 1-5 under 35 U.S.C. §103(a) as allegedly being unpatentable over Yamamoto (U.S. Patent No. 5,814,576, hereinafter "Yamamoto") or Suzuki (JP Patent Publication No. 2002-079097, hereinafter "Suzuki") in view of Takeshima (U.S. Patent Application Publication No. 2004/0171483, hereinafter "Takeshima") or Taniguichi (U.S. Patent Application Publication No. 2002/0015674, hereinafter "Taniguchi"). Applicants respectfully traverse the rejections.

In response to the rejections over Takeshima, Applicants note that Takeshima is not available as prior art under 35 U.S.C. § 102(a) or §102(e) because the filing date of Applicants' priority document (JP Patent Application No. 2003-0364852) is October 24, 2003, which antedates the publication date and filing date of Takeshima. Applicants will subsequently file an accurate English-language translation of Takeshima, in order to perfect Applicants' claim for foreign priority. In view of Applicants' claim for foreign priority to JP Patent Application No. 2003-0364852, Applicants respectfully request reconsideration and withdrawal of the rejections over Takeshima.

As for the rejections over Taniguichi, Applicants note that Taniguchi is directed to a catalyst produced by a conventional co-precipitation method. Because the catalyst disclosed in Taniguchi is obtained by a conventional co-precipitation method, the spacing of the crystal lattice structure of the catalyst disclosed in Taniguchi does not "correspond... to a (111) plane spacing value of a theoretical crystal lattice," as recited in independent claim 1. As shown in Figure 28 and Figure 28 and page 46, line 32, to page 47, line 7, of the present specification, the crystal lattice structure of a catalyst produced using conventional co-precipitation methods, such as the method disclosed in Taniguchi, are distinct from the crystal lattice structure of the claimed exhaust gas purifying catalyst. The X-ray diffraction data in Figure 28 demonstrates that the spacing of the crystal lattice structures of catalysts produced using

the conventional co-precipitation method does not correspond to the spacing values of a theoretical crystal lattice, while the claimed exhaust gas purifying catalyst corresponds to the (111) plane spacing value of a theoretical crystal lattice.

Furthermore, the present specification teaches that the conventional co-precipitation method is not "capable of permitting lanthanum to be substituted with zirconium to a sufficient degree, does not have ultra-strong basic points in a sufficient amount and is not ...capable of homogeneously distributing the ultra-strong basic points" (*see* page 8, lines 4-18, of the present specification). In contrast to the catalyst disclosed in Taniguchi, the claimed catalyst is produced by the disclosed micro-emulsion method, enabling the recited trivalent rare earth metal to be substituted in a sufficiently large amount by zirconium, and facilitating the "ultra-strong" basic points to be homogeneously distributed throughout the catalyst (*see* page 8, lines 4-18, of the present specification). Although Taniguchi indicates that lanthanum oxide is doped in the zirconium oxide, the superior degree of substitution of the recited trivalent rare earth metal in the claimed catalyst is demonstrated by the fact that the spacing of the crystal lattice structure of the claimed catalyst corresponds to the spacing values of a theoretical crystal lattice structure (*see* page 8, lines 4-18, of the present specification). For at least these reasons, Applicants submit that the crystal lattice structures of the claimed catalyst and the catalyst in Taniguchi are distinct, contrary to the assertions in the Office Action.

Furthermore, the Office Action acknowledges that both Yamamoto and Suzuki fail to disclose the recited spacing of the crystal lattice structure of the claimed exhaust gas purifying catalyst (*see* page 2 and 4 of the Office Action). Therefore, Applicants submit that Yamamoto, Suzuki, and Taniguich (either alone or in any proper combination) fail to disclose or to have rendered obvious the claimed exhaust gas purifying catalyst recited in claims 1-5.

The cited references thus would not have rendered obvious claims 1-5.

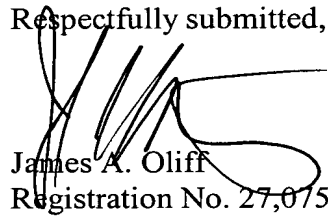
Reconsideration and withdrawal of the rejections are respectfully requested.

**Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-9 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

  
James A. Oliff  
Registration No. 27,075

Joel S. Armstrong  
Registration No. 36,430

JAO:AMJ/mcp

Attachment:  
Petition for Extension of Time

Date: June 9, 2009

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--